

REMARKS

Claims 16, 17 and 23 remain in the application. Claims 1-15 and 18-22 have been previously canceled.

As to the section 102 rejection based on Condon 6,378,912, applicants have attached two declarations under Section 1.131 by William R. Markowitz and Todd C. Loschelder, two of the inventors in this application. These declarations were originally submitted in the parent application to establish a conception and reduction to practice in the parent application, which included original claim 16 of the current application, prior to August 13, 1998.

The attached declaration under Section 1.131 by Mr. Loschelder, establishes a conception of that portion of claim 16 describing a suite of water control plumbing fixtures having a common decorative theme, one of which plumbing control fixtures is the subject of Mr. Markowitz's declaration. Mr. Loschelder's declaration states that the conception as described above took place prior to the earliest filing date of Condon '912, which filing date is July 23, 1999. Mr. Loschelder's declaration references not only the reduction to practice of the plumbing fixture set forth in Mr. Markowitz's declaration, but a second plumbing fixture using the modular concept, specifically a shower arm mounting system which is the subject of application Serial No. 09/422,773, the invention of Erwin F. Mikol, one of the named inventors in the present application.

Taken together, the declarations of Markowitz and Loschelder establish a conception and reduction to practice of the subject matter of independent claim 16 in this application before the filing date of Condon '912. Thus, Condon '912 is not appropriate for

use in a rejection under Sections 102 or 103.

The remaining Section 102 or 103 rejections are based on Valley 4,678,002 either alone or in combination with Fife 3,012,251. Reconsideration of these rejections is respectfully requested for the reasons discussed below.

In the Office action, it is presumed that Valley 4,678,002 discloses a plurality of independent and separate water control plumbing fixtures by a pair of faucet valves 18. The pairs of faucet valves 18 are not separate and independent water control plumbing fixtures. In fact, they are part of the same plumbing fixture, which is disclosed as a faucet. The two faucet valves 18 control either hot or cold water to a single faucet spout which is not shown. Valley only discloses and suggests one type of water control plumbing fixture and that is a faucet. Valley '002 does not disclose or suggest any other plumbing fixtures. Valley's single plumbing fixture fails to read on a plurality of independent and separate water control plumbing fixtures, each having a water control function different from another. For this reason, Valley fails to teach or suggest claim 16.

Moreover, Valley '002 further fails to teach or suggest a plumbing fixture which includes a waterway which extends beyond the visible surface of the support into a functional and decorative element. Each of Valley's elements 18 enclose a respective hot or cold faucet valve. Neither element 18 discloses or suggests a waterway extending beyond the visible surface. The waterway is defined between the inlet and outlet openings 15, 16 which are both located behind the shower wall. There is no waterway whatsoever extending beyond the visible surface into the decorative cover 92. This is another reason which distinguishes claim 16.

In Fife '251 while the shower head 26 may arguably be considered a functional and decorative element, it does not substantially conceal the waterway 29. In fact, the ball joint 30 in the showerhead 26 threads on to the end of the waterway 29 and barely covers any of the waterway. The majority of the waterway 29 is exposed to view. This defeats any possibility of providing a common decorative theme. Indeed, it is pointed out that there is no indication in Fife '251 that the tub spout 15 and the showerhead 26 are intended to or do have a common decorative theme. This is another reason that Fife fails to teach or suggest claim 16 in addition to the concealment issue discussed above. Thus, Fife's tub spout and showerhead fail to teach or suggest the plurality of plumbing fixtures of claim 16.

In the Office action, it is presumed that claim 16 would be obvious if Fife's pair of handles 8A, stems 6, 7 and bonnets 5 were replaced with Valley's valve assembly 10. Applicants respectively disagree. Fife '251 suffers the same deficiencies as Valley '002 and so any combination of these references also fails to teach or suggest claim 16.

Fife's pair of handles 8A, stems 6, 7 and bonnets 5 fail to teach or suggest independent and separate water control plumbing fixtures. Fife's structures 5, 6, 7, 8A work together to provide hot, cold or mixed water from the usual hot and cold water connections 8, 9 to one of the plumbing fixture outlets. These structures 5, 6, 7, 8A are not independent or separate from one another. In fact, Fife's structures are no different than Valley's pair of faucet valves and are distinguishable for the same reasons discussed above.

Moreover, in Fife's handles 8A there is no waterway which extends beyond the visible surface of the support. Fife's waterway is a mixing chamber A which is clearly located behind the support wall 16. The mixing chamber A does not extend to the visible surface of

the wall 16. Rather, the mixing chamber A extends parallel to the wall between its first and second outlets 10, 17, which outlets are also located behind the wall. No portion of Fife's mixing chamber extends beyond the wall. Therefore, Fife '251 in addition to Valley '002, as discussed above, both fail to teach or suggest claim 16.

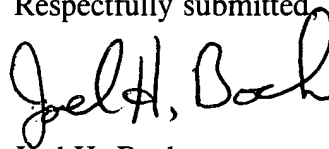
Applicants emphasize once again, the essence of the invention claimed in the present application is a plurality of modular plumbing fixtures, different in function, but having a common decorative theme in which the decorative and exposed portion of the fixture may be easily removed and replaced without affecting the underlying waterway connections. This enables the user to in effect change the decor, of a suite or plurality of plumbing products, all in the same room, but without affecting any of the water supply connections to these products. In other words, the exposed or visible portion of the plumbing fixture is changed while the underlying water supply connections remain unchanged. Applicants respectfully maintain that this is a subject that is simply not shown in any of the art of record. Applicants continue to make every effort to define the subject matter of claim 16 in a way which distinguishes it over the cited references, but would welcome suggestions from the examiner if he does not believe the claims in their present form are allowable over the art specified in the 102 and 103 rejections.

As to the specification, the current application has been amended to contain a specific reference to the parent application, U.S. Application No. 09/576,292, filed May 23, 2000, now Patent No. 6,360,770, issued March 26, 2002. The current application is a continuation of the parent application and was filed on December 19, 2001, during the pendency of the parent application. At the time of filing the current application, the

accompanying filing documents specifically identified the parent application by its serial number and incorporated the parent application by reference, but, as yet, the specification has not amended to contain a specific reference to the parent application. Accordingly, this application is being amended herein to contain a specific reference to the parent application. Entry of this amendment is respectfully requested.

A reconsideration and allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joel H. Bock". The signature is fluid and cursive, with the first name "Joel" and last name "Bock" clearly distinguishable.

Joel H. Bock

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